

Appl. No. 10/764,002
Reply Filed with RCE on January 19, 2006

REMARKS

The present application and its claims are directed to a selling service and system. Claims 5-24 were presented, claim 19 has been cancelled and claims 5 and 18 have been amended so that Claims 5-18 and 20-24 are now pending.

PRIOR ART REJECTIONS

In response to the Examiner's rejection of Claims 5-24 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,085,176 to Woolston (hereinafter "Woolston") in view of the article "eBay Teams with Mail Boxes Etc. and iShip.com to Provide Person-to-Person E-Commerce Shipping Solutions" (the "eBay Article"), Applicant respectfully traverses the rejection. In particular, the claims submitted with this response are distinguishable from Woolston in combination with the eBay Article for the reasons set forth below.

Claims 5 and 18 are not obvious over Woolston in combination with the eBay Article because the combination of Woolston and the eBay Article does not disclose each feature recited in claims 5 and 18 and therefore the examiner has not established a *prima facie* case of obviousness and the rejection should be withdrawn.

Claim 5 recites "one or more inlets that receive a plurality of items to be sold on a consignment basis for a seller" which is not disclosed by Woolston or the eBay Article. Claim 18 recites a similar element. The examiner has admitted that Woolston does not disclose this element, but argues that this element is present in the eBay Article. However, the eBay Article is directed to a typical auction website, such as eBay, which is not a consignment sale system. In a typical auction website, eBay provides a marketplace for various items but does not ever accept items for a consignment sale. In the system disclosed in the eBay Article, Mail Boxes Etc. ("MBE") is a physical site that facilitates the shipping of products sold on eBay in a typical sale. The eBay Article also discloses that MBE may have a "hold for inspection" program where goods can be delivered and inspected. However, MBE does not accept items for a consignment sale as required by claim 5. MBE accepts items to be sold on eBay by the seller of the item and

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the sale of the item on eBay by the seller is not a consignment sale. Therefore, the combination of Woolston and the eBay Article does not disclose this element of claims 5 and 18.

Claim 5 also recites "a listing station that generates a listing for each item based on the evaluation data and the photograph wherein the listing includes sales criteria so that each item is listed using the listing in an existing marketplace for the sales of the item" which is not present in either Woolston or the eBay Article. Claim 18 recites a substantially similar element. The eBay Article does not disclose this feature. Woolston also does not disclose this element because "Woolston discloses an apparatus for creating a computerized market for used and collectible goods" and "Woolston discloses a network which provides a trusted means for consignment node users, such as shopkeepers, to establish markets for collectible items, establish electronic auctions and a means to present goods. See Final Office action at p.3 and Col. 2, lines 38-44 of Woolston. As is apparent from these statements that the examiner cited in Woolston, Woolston is directed to creating a market or establishing electronic auctions, but not to listing an item in an existing marketplace. Therefore, the combination of the eBay Article and Woolston does not disclose this feature.

Claim 5 also recites "a marketplace interface that coordinates the sale of the item at the existing marketplace without seller involvement" which is not disclosed by either Woolston or the eBay Article. Claim 18 recites a substantially similar element. The eBay Article does not disclose this feature. Woolston also does not disclose this feature. As set forth above, Woolston is directed to creating a market or establishing electronic auctions and therefore does not have the marketplace interface that coordinates the sale of the item at the existing marketplace without seller involvement. In addition, it is clear that the seller (the consignment node user) must enter information into the consignment node about a good to be sold (See Col. 10, lines 13-15.) so that it does not manage the sale of the item without seller involvement. There is no disclosure in Woolston that the consignment node operates without the involvement of the seller. Therefore, the combination of the eBay Article and Woolston does not disclose this feature.

Claim 5 also recites that the marketplace interface has the following additional elements that include 1) means for receiving an identity of a buyer from the existing marketplace, 2)

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means for receiving a payment from the buyer of a sold item, 3) means for shipping the sold item to the buyer and 4) means for sending a portion of the payment from the buyer to the seller to complete the consignment sale. Claim 18 recites a substantially similar element (as method steps). The eBay Article does not disclose this combination of elements. Woolston also does not disclose this combination of elements. Woolston creates a marketplace for goods as set forth above, but does not disclose the claimed means for receiving an identity of a buyer from the existing marketplace since Woolston discloses that it creates its own marketplace. Furthermore, Woolston does not disclose all of the separate elements. Therefore, the combination of Woolston and the eBay Article does not disclose this feature of claims 5 and 18.

In summary, in order to establish a prima facie case of obviousness (See MPEP 2142), the examiner must show that the combination of Woolston and the eBay Article disclose or suggest each element of the rejected claim. For the reasons set forth above, the combination does not disclose or suggest the elements of claims 5 and 18 and therefore the rejection of claims 5 and 18 should be withdrawn. Furthermore, claims 6-17 that depend from claim 5 and claims 20-24 that depend from claim 18 are also allowable over Woolston and the eBay Article for at least the same reasons as claims 5 and 18.

Claim 17

In addition to the above reasons for claim 5, claim 17 is not disclosed by either Woolston or the eBay Article. Claim 17 recites that each inlet has a registration station that has "an acceptance module that determines the acceptance of the item to be sold and an agreement generation module that generates a consignment agreement for the seller to sign once the item has been accepted by the acceptance module." This feature is not disclosed by Woolston. Furthermore, it is also not disclosed by the eBay Article. The eBay Article discloses that MBE is a place at which goods can be dropped off and held for inspection. The eBay Article does not disclose that MBE has "an agreement generation module that generates a consignment agreement for the seller to sign once the item has been accepted by the acceptance module" and therefore claim 17 is not disclosed by the combination of Woolston or the eBay Article.

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CONCLUSION

In view of the above, it is respectfully submitted that Claims 5-18 and 20-24 are allowable over the prior art cited by the Examiner and early allowance of these claims and the application is respectfully requested.

The Examiner is invited to call Applicant's attorney at the number below in order to speed the prosecution of this application.

The Commissioner is authorized to charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 07-1896.

Respectfully submitted,

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